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Letter dated 24 May 2013 from the Permanent Representative of South Sudan to the United Nations addressed to the President of the Security Council

On behalf of the Republic of South Sudan, I would like to thank the Security Council for its continued focus on the issue of Abyei. The Republic of South Sudan also wishes to express its deep gratitude to the United Nations Interim Security Force for Abyei (UNISFA) for its work and to the Government of Ethiopia for its contributions to the mission as well as all of its efforts to support peace and security in our region.

My Government also welcomes the recent report of the Secretary-General on the situation in Abyei (S/2013/294), which provides important insights into the achievements of the UNISFA mission as well as the challenges it continues to face.

South Sudan further welcomes the call by the Secretary-General in his report for an increase in the UNISFA troop ceiling to allow more troops to be deployed in order to support the Joint Border Verification and Monitoring Mechanism that is being implemented by the Sudan and South Sudan and will promote greater stability in the border areas between the two States.

I take this opportunity to remind the esteemed members of the Security Council that, under the 2005 Comprehensive Peace Agreement, a separate referendum should have been held in Abyei simultaneously with the referendum in Southern Sudan, allowing the Ngok Dinka and other Sudanese residing in the Abyei Area to choose whether to retain Abyei's special administrative status in the Sudan or to become part of Bahr el-Ghazal State in South Sudan. The issue of who constituted the residents of Abyei for the purposes of that referendum was never resolved because the Government of the Sudan did not establish the body that was required to determine this.

Separately, the borders of the Abyei Area were in dispute following the Comprehensive Peace Agreement. The Abyei Protocol of the Comprehensive Peace Agreement established the Abyei Boundary Commission, whose determination was to be "final and binding" but whose report the Government of the Sudan rejected. In 2008, following the attack on Abyei and the destruction of Abyei Town by the Sudan, both parties willingly agreed to submit the Abyei border issue to the International Court of Arbitration for final and binding arbitration. The 2009 arbitration award is clear. It establishes the legal definition of the border of the Abyei Area, and this cannot be changed.

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The Sudan Armed Forces overran Abyei for a second time in 2011, displacing over 100,000 Ngok Dinka residents. Th aim was to make it impossible to hold the agreed referendum and to facilitate the resettlement of Misseriya in the Abyei Area.

In May 2012, the Security Council stipulated that the parties — under threat of sanctions — reach final agreement on all outstanding issues, including the final status of Abyei, within three months. That deadline was not met but, on 21 September 2012, the African Union High-level Implementation Panel put forward a proposal that the African Union Peace and Security Council, meeting at the level of Heads of State and Government, declared on 25 January 2013 "represents a fair, equitable and workable solution to the dispute, which takes into account existing agreements and antecedents, as well as the needs and interests of the communities on the ground". The Republic of South Sudan maintains its acceptance of the African Union High-level Implementation Panel 21 September 2012 proposal on the final status of the Abyei Area. The Sudan continues to reject the proposal. The Sudan and South Sudan have agreed to address the issue of the final status of Abyei at the level of the two Presidents, and it is my country's hope that an agreement on final status can be reached without further delay.

It is with regret that we recall that, since the May 2011 takeover of Abyei by the Sudan Armed Forces, the Sudanese Government has encouraged the settlement of the Misseriya within the Ngok Dinka areas north of Abyei Town, with a view to changing the demographic balance of the area. The presumed goal would be to influence the outcome of the agreed referendum. There have also been reports of armed Misseriya repeatedly attacking the Ngok Dinka, killing people, looting cattle and burning villages. The Secretary-General's most recent report (S/2013/294) highlights some of these incidents in paragraphs 7, 10, 11, 12 and 13. Some of these incidents happened in front of UNISFA soldiers or were reported to them, but they explained that their mandate was to prevent the armed uniformed forces of the Governments of the Sudan and South Sudan from operating in the area and not to intervene in attacks by armed civilian elements, despite their efforts to be proactive. It should be noted that throughout the wars between North and Southern Sudan, the Government of the Sudan regularly recruited, trained and armed militias to fight rebels. Those militias were disguised as civilians, and they often turned their guns against real civilians.

The Republic of South Sudan believes that, for all these reasons, the situation in Abyei continues to constitute a threat to international peace and security. As a matter of urgency, my Government reiterates its call for:

(a) A strengthened mandate for UNISFA to clarify that it must engage in the protection of civilians against all armed elements, including those disguised as civilians;

(b) Full demilitarization of the Abyei Area in accordance with the 20 June 2011 Agreement and Security Council resolution 1990 (2011);

(c) Facilitation of the return of all displaced Ngok Dinka to their home areas, in accordance with the 20 June 2011 Agreement between the two Governments; and

(d) An agreement on the final status of the Abyei Area, in accordance with the 20 June 2011 Agreement and Security Council resolution 2046 (2012).

Establishing temporary institutions in Abyei will not create the lasting peace that is sought, and their establishment cannot be viewed as an end in itself. It should be recalled that the power arrangements between the National Congress Party in the North and the Sudan People's Liberation Movement in the South envisaged power-sharing in which representatives of the National Congress Party in Southern institutions would be Southerners and representatives of the Sudan People's Liberation Movement in the North would be Northerners. Equally, power-sharing arrangements in Abyei envisaged that National Congress Party representatives of Ngok Dinka institutions would be from the Ngok Dinka. The Sudan has altered this understanding to demand that the National Congress Party representatives in Abyei Area institutions be Misseriya. They now demand both that the leader of the Abyei Area Council be from the Misseriya and that the Council itself be split 50/50 between the Misseriya and the Ngok Dinka, when the Comprehensive Peace Agreement clearly provides for a 40/60 split. This is at a time when the Misseriya are in full control of their own institutions in their own areas without any participation from the Ngok Dinka.

The Sudan must therefore not be allowed to continue moving the goalposts by changing the criteria for how the temporary institutions are to be established. It must further be prohibited from creating additional facts on the ground by resettling and arming Misseriya in the north of Abyei. If the referendum results in Abyei becoming part of South Sudan, the Misseriya will be welcome to graze and water their cattle in Abyei and beyond, as they have for many generations, provided that they come in peace.

Following the assassination of Paramount Chief Kuol Deng Kuol and the killing of a UNISFA soldier on 4 May 2013, we welcome the Republic of the Sudan's stated commitment to a transparent, comprehensive and just investigation to hold all those involved in this incident to account. Unfortunately, past experience has shown that not a single case of criminal violence by Misseriya has ever been investigated and not a single person has ever been held accountable. The promised investigation should therefore have regional and international representation for it to be credible. There must be justice, and those responsible must be punished. We look forward to hearing details on how these investigations will proceed.

I should be most grateful if you would circulate the present letter as an official document of the Security Council.

(*Signed*) Francis Mading **Deng**
Permanent Representative